

## 16 C.J.S. Constitutional Law § 7

Corpus Juris Secundum | October 2021 Update

### Constitutional Law

Francis C. Amendola, J.D.; Joseph Bassano, J.D.; John Bourdeau, J.D.; M. Elaine Buccieri, J.D.; James Buchwalter, J.D.; Michael N. Giuliano, J.D.; Lonnie E. Griffith, Jr., J.D.; Eleanor L. Grossman, J.D., of the staff of the National Legal Research Group, Inc.; Jill Gustafson, J.D.; Glenda K. Harnad, J.D.; Alan J. Jacobs, J.D.; John Kimpflen, J.D.; Amy L. Kruse, J.D.; Stephen Lease, J.D.; Sonja Larsen, J.D.; Robert B. McKinney, J.D., of the staff of the National Legal Research Group, Inc.; Mary Babb Morris, J.D., of the staff of the National Legal Research Group, Inc.; Anne E. Melley, J.D., LL.M., of the staff of the National Legal Research Group, Inc.; Kristina E. Music Biro, J.D., of the staff of the National Legal Research Group, Inc.; Thomas Muskus, J.D.; Sally J.T. Necheles, J.D., LL.M.; Karl Oakes, J.D. and Eric C. Surette, J.D.

### PART I. Nature, Establishment, Amendment, and Construction of **Constitutions**; Separation of Powers

#### I. Definitions; Nature and Authority of **Constitutions**

##### B. Nature and Authority of **Constitutions**

###### 1. In General

### § 7. Constitution not subject to suspension, departure, or abandonment

[Topic Summary](#) [References](#) [Correlation Table](#)

#### West's Key Number Digest

West's Key Number Digest, **Constitutional Law** 502

A **constitution** may **not** be **suspended**, **departed** from, or **abandoned**. **Constitutional** guaranties are **not**, however, immune from regulation or limitation in the interest of the common good.

Emergencies do **not** authorize the **suspension** of a **constitution** and its guaranties.<sup>1</sup> Rules of expediency cannot be placed above the **constitution**<sup>2</sup> however well-intentioned the proponents of the **departure** from the **constitution** may be.<sup>3</sup>

The vitality of **constitutional** principles also cannot be allowed to yield simply because of a disagreement with them.<sup>4</sup> Thus, an effort to accommodate community sentiment or the wishes of the majority of the voters, although usually valid and desirable, cannot justify the **abandonment** of a **constitution**.<sup>5</sup>

The rights guaranteed by a **constitution** are **not**, however, so absolute that they must be exercised under all circumstances and without any qualification but, like other rights, must always be exercised with reasonable regard for the conflicting rights of others.<sup>6</sup> A **constitution** is **not** so rigid that it always mandates the same outcome even when its principles operate on a new set of facts that were previously unknown.<sup>7</sup>

Westlaw. © 2021 Thomson Reuters. No Claim to Orig. U.S. Govt. Works.

#### Footnotes

<sup>1</sup> Ala.—[City of Mobile v. Rouse](#), 233 Ala. 622, 173 So. 266, 111 A.L.R. 349 (1937).

<sup>2</sup> Va.—[Town of Galax v. Appalachian Elec. Power Co.](#), 177 Va. 29, 12 S.E.2d 778 (1941).

#### Effect of difficulty of compliance

Mich.—[Alan v. Wayne County](#), 388 Mich. 210, 200 N.W.2d 628, 67 A.L.R.3d 1079 (1972), opinion adhered to on denial of reh'g, 388 Mich. 626, 202 N.W.2d 277 (1972).

<sup>3</sup> U.S.—[Carter v. Carter Coal Co.](#), 298 U.S. 238, 56 S. Ct. 855, 80 L. Ed. 1160 (1936).  
N.Y.—[Fink v. Cole](#), 302 N.Y. 216, 97 N.E.2d 873 (1951).

<sup>4</sup> U.S.—[Griffin v. County School Bd. of Prince Edward County](#), 377 U.S. 218, 84 S. Ct. 1226, 12 L. Ed. 2d 256 (1964);  
[U.S. v. Indianola Municipal Separate School Dist.](#), 410 F.2d 626 (5th Cir. 1969).

<sup>5</sup> U.S.—[Keyes v. School Dist. No. One, Denver, Colo.](#), 303 F. Supp. 279 (D. Colo. 1969), opinion modified on other grounds, 303 F. Supp. 289 (D. Colo. 1969).

<sup>6</sup> U.S.—[Pierce v. Turner](#), 276 F. Supp. 289 (D. Utah 1967), judgment aff'd, 402 F.2d 109 (10th Cir. 1968).

<sup>7</sup> U.S.—[Kitchen v. Herbert](#), 961 F. Supp. 2d 1181 (D. Utah 2013), judgment aff'd, 755 F.3d 1193 (10th Cir. 2014), cert. denied, 135 S. Ct. 265, 190 L. Ed. 2d 138 (2014).